

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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Notice of Inquiry Re: Enrollment in  
Discounted Rates for Electric,  
Gas and Telephone Service

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D.T.E. 01-106

**INITIAL COMMENTS OF NSTAR ELECTRIC  
AND NSTAR GAS COMPANY**

**I. INTRODUCTION**

On December 17, 2001, the Department of Telecommunications and Energy (the “Department”) issued a Notice of Inquiry (the “NOI”) opening a generic investigation into certain issues relating to the penetration rate for discount programs that are offered to low-income residential customers by electric, gas and telephone utilities operating in the Commonwealth. Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company (collectively, “NSTAR Electric”) and NSTAR Gas Company (collectively, with NSTAR Electric, “NSTAR” or the “Company”), hereby file the following comments regarding the Department’s investigation in this proceeding.

In the NOI, the Department stated that it intends to review current programs for discounted electric, gas and telephone service and to explore actions that could be taken to increase subscribership in those programs, including the potential for expanding the range of options available for enrolling eligible customers. NOI at 5. To that end, the Department has solicited comments on seven specific issues relating to the outreach efforts and verification procedures of electric, gas and telephone companies serving customers in Massachusetts. These seven issues are as follows:

- outreach efforts to identify eligible customers;

- current procedures used for subscriber eligibility verification and enrollment;
- whether current subscriber eligibility standards would permit utility companies to enroll each other's customers in low-income rates;
- strategies for addressing varying income requirements of public benefit programs;
- whether utility companies could implement a computer-matching program to verify subscriber eligibility and enroll eligible customers in low-income rates;
- whether any legal impediment exists to enrolling eligible customers in all available low-income rates; and
- privacy concerns related to electronic sharing of financial or other confidential information.

Id. at 5-6.

Under existing law and regulation, customers are eligible for utility-sponsored low-income rates based on a demonstration that the household income does not exceed 175 percent of the federal poverty level. See G.L. c. 164, § 1F(4)(i); 220 C.M.R. § 11.05(4) (electric-industry restructuring regulations); 220 C.M.R. § 14.03(2A) (natural gas unbundling regulations). Because eligibility for many need-based government programs is also determined by household income, a customer's eligibility for a low-income program is generally established through verification of the customer's participation in a specified government-assistance program. Accordingly, the Department has solicited comments on whether enrollment in low-income programs might be increased through: (1) inter-utility enrollment of customers that demonstrate eligibility for any one utility's low-income program; and/or (2) computer-matching programs that would automatically enroll customers who are participating in need-based government-assistance programs in utility-administered low-income rate programs.

NSTAR's comments on these issues are organized to address: (1) the Company's current guidelines and procedures for verifying eligibility and enrolling customers; (2) the Company's outreach efforts to identify eligible customers; and (3) issues relating to the implementation of an inter-utility system to enroll eligible customers and/or a computer-matching program with government-assistance agencies to automatically identify eligible customers.

## **II. COMMENTS**

### **A. NSTAR's Procedures for Subscriber Eligibility Verification and Enrollment**

NSTAR's procedures for enrolling eligible subscribers are based on G.L. c. 164, § 1F(4)(i), as added by the Electric Restructuring Act of 1997 (the "Act").<sup>1</sup> Pursuant to G.L. c. 164, § 1F(4)(i), eligibility for low-income utility rates is established based on verification of a customer's receipt of a means-tested public benefit or eligibility for fuel assistance through the Low-Income Home Energy Assistance Program ("LIHEAP"). In either case, a customer's total household income cannot exceed 175 percent of the federal poverty level. G.L. c. 164, § 1F(4)(i). According to these criteria, NSTAR has identified several means-tested public benefit programs under which both gas and electric customers may be eligible for the Company's low-income rates:

- Transitional Aid to Families with Dependent Children ("TAFDC") (administered by the Massachusetts Department of Transitional Assistance ("DTA"));
- Supplemental Social Security Income ("SSI") (administered by the DTA);

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<sup>1</sup> Although the Act's provisions regarding low-income rates do not apply specifically to gas customers, the Department, in its initiative into unbundling gas service in Massachusetts, has applied the same standard for low-income discount rates for gas distribution companies. See 220 C.M.R. 14.03(b). Thus, NSTAR Gas has also incorporated the provisions in 220 C.M.R. 14.03(b) and G.L. c. 164, § 1F(4)(i) in its rates and offers low-income rates to its customers under the same terms as those offered to NSTAR Electric's customers.

- Emergency Aid to Elderly, Disabled and Children (“EAEDC”) (administered by the DTA);
- Food Stamps (administered by the DTA);
- Mass Health (or “Medicaid”) (administered by the Division of Medical Assistance);
- LIHEAP (administered by the Massachusetts Department of Housing and Community Development and various local Community Action Programs);
- Refugee Resettlement Benefits (administered by the DTA);
- Head Start (administered by local school systems);
- National School Lunch or Breakfast Program (administered by local school systems);
- Women, Infants, and Children Program (“WIC”)
- Massachusetts Veterans Benefits;
- Recipients of Improved Veterans Disability Pensions;
- Recipients of Indemnity Compensation for Surviving Parents of Veterans (with the above two, “Veterans Benefits,” each administered by federal and state veterans agencies).

Rather than verifying a customer’s household income to determine eligibility for low-income rates, NSTAR generally presumes eligibility based on the customer’s receipt of a means-tested public benefit (such as those listed above), or establishes eligibility based on information that is provided to the Company by the agencies administering those benefits. Because the government-assistance agencies verify household income as part of the assistance program, and because NSTAR does not generally collect or maintain customer income information, this process serves as an efficient means of verifying a customer’s eligibility for participation in the Company’s low-income rate program.

Thus, when a customer applies for service through NSTAR's call center, NSTAR representatives will inquire whether anyone in the customer's home receives government benefits from: SSI, Refugee Assistance, TAFDC, EAEDC, Food Stamps, Medicaid, Veteran's Benefits or Fuel Assistance. If the answer is affirmative, the Company codes the customer's account pending verification of the customer's receipt of such benefits. In order to verify the customer's receipt of means-tested benefits, NSTAR will either: (1) match the customer's name with the names of customers eligible for LIHEAP through lists provided by LIHEAP agencies; (2) send the DTA a list of new NSTAR customers with a request that the DTA confirm such customers are clients of DTA and receive public benefits;<sup>2</sup> or (3) request that the customer send the Company proof of the customer's participation in a means-tested program (e.g., for Veteran's Benefits). Eligibility for the Company's low-income rate must be verified on an annual basis to continue receiving service at the discounted rate.

With regard to referrals from LIHEAP agencies, NSTAR periodically sends those agencies a list of all customers who participated in the Company's low-income rates for the prior year, as well as customers that indicate they receive fuel assistance. This list is used to match customer names with LIHEAP records and either initially enroll in the discount rate program, or renew the customer's eligibility for the program.. Once the LIHEAP agencies have begun to enroll clients in their programs, the agencies send the

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<sup>2</sup> NSTAR's ability to access information electronically from the DTA regarding existing DTA clients is limited to situations where a customer of NSTAR has requested enrollment on NSTAR's low-income rates and has notified NSTAR of his or her enrollment in a DTA-administered benefit program. Accordingly, when NSTAR asks the DTA for information verifying that customer's enrollment in a DTA-administered program, the DTA shares information with NSTAR under a presumption that the customer has affirmatively authorized NSTAR to verify enrollment. If it is easier for the customer, NSTAR accepts a copy of such customer's DTA identification card or benefit confirmation letter to confirm their eligibility for a low-income rate.

names of those clients whose household incomes are at or below 175 percent of the federal poverty level to NSTAR so that NSTAR can automatically enroll or re-enroll customers in its low-income rates. In this manner, all customers eligible for LIHEAP assistance in a given heating season are automatically enrolled in NSTAR's low-income rates for that year. As noted above, for NSTAR customers who have claimed eligibility based on participation in a DTA-administered program, NSTAR sends the DTA information regarding the new or re-enrolling customer and the agency verifies that the customer receives DTA-administered benefits before the Company enrolls or re-enrolls that customer in its low-income rates.

For privacy reasons, however, a different enrollment process is used for persons who are new DTA clients and have not claimed eligibility in NSTAR's low-income rate program. If an NSTAR customer becomes a new DTA client by virtue of the customer's receipt of TAFDC, EAEDC, Food Stamps, MassHealth or SSI benefits, the DTA will notify a designated, independent mailing firm retained by NSTAR and the mailing firm will send the new DTA client information and an application for participation in NSTAR's low-income rates. When the customer returns the Company's application form to NSTAR, NSTAR will process the application. These enrollment procedures with the LIHEAP agencies and the DTA allow NSTAR to renew<sup>3</sup> automatically its low-income rates for more than 96 percent of its customers who have previously received service on

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<sup>3</sup> The Company re-enrolls customers annually in its low-income rates either automatically, after confirmation of a customer's continued eligibility for the same means-tested public program under which such customer was originally enrolled in the Company's low-income rates, or via correspondence between the customer and the Company in cases where the Company has determined that the customer is no longer eligible for the means-tested program under which the customer was originally enrolled. Regarding the latter, the Company will send a letter to the customer noting that re-enrollment is possible after the Company verifies the customer's eligibility for a new means-tested program.

the Company's low-income rates. NSTAR is working with state officials to establish consistent, statewide data-matching procedures that will simplify program administration efforts with the various LIHEAP agencies in its service area.

In addition to these enrollment procedures involving LIHEAP and DTA clients, the Company will enroll customers if the Company receives proof directly from the customer, or an organization working with the customer, that the customer is eligible for a means-tested program. For example, NSTAR also recently targeted 150 randomly selected schools across its service territory and developed an authorization form where schools can verify eligibility for the Company's low-income rates based on a family's participation in a school lunch program. The Company has also targeted Head Start programs by developing an authorization form that allows the administrators of such programs to verify eligibility automatically. In addition, NSTAR is finalizing an agreement with WIC under which administrators for the program would verify their clients' income eligibility for the Company's low-income rates.

#### **B. NSTAR's Outreach Efforts**

NSTAR's efforts to enroll eligible customers in its low-income rates are designed to be proactive and are wide-reaching in scope. As noted previously, in addition to direct coordination with the government agencies, the Company also utilizes its call center to accomplish outreach and enrollment efforts. If a customer calls NSTAR regarding eligibility for low-income rates, the Company's customer-care employees initiate eligibility verification during that call. NSTAR also trains its staff to educate customers about different rates and energy-efficiency programs whenever customers call with questions about their bills. If a customer applying for electricity or gas service states that he or she receives benefits administered by LIHEAP or the DTA, including Supplemental

Security Income, NSTAR will initiate their enrollment in its low-income rates based on that phone call.

In addition to outreach performed through NSTAR's call center, the Company continually notifies all of its customers of the availability of low-income rates through several means, including: (1) advertising campaigns; (2) brochures and bill inserts; and (3) cooperation with public agencies and community organizations throughout its service territory. These efforts are described more fully below.

1. Advertising

During 2001, NSTAR expended approximately \$100,000 in direct media advertising to promote its low-income rates. For example, NSTAR developed a print advertisement highlighting its low-income rates and placed it in 30 publications across the service territory during the months of July and August 2001. The media campaign targeted communities where the largest populations of eligible customers reside. In addition, the print advertisement was placed in Portuguese, Spanish, and Chinese newspapers, as well as a publication for senior citizens. The Company has also incorporated references to its low-income rates into its overall corporate print-ad materials. NSTAR also is currently participating in a television and radio campaign that is designed to create an awareness for customers to participate in the fuel assistance program, utility discount rate programs, and energy efficiency programs. The ad includes a toll-free number to call for information regarding heating assistance. Customer information received in response to the ad is treated confidentially, and is forwarded to the local fuel assistance agency for direct contact with the customer.

In addition to direct advertising, during 2001 NSTAR donated approximately \$250,000 to area community action programs, which resulted in about two dozen news



items promoting the Company's low-income rates across the NSTAR service territory including dailies in Boston, Worcester, New Bedford and the Cape and several local weeklies. Donations were made to the People Acting in Community Endeavors ("PACE") program in New Bedford, the Action for Boston Community Development ("ABCD") program in Boston, the South Shore Community Action Council, the South Middlesex Opportunity Council, the Worcester Community Action Program and the Cape Cod Needy Fund. In addition, NSTAR's website includes information for customers and agencies regarding the Company's low-income rates.

## 2. Customer Mailings, Brochures and Inserts

NSTAR performs direct outreach to its customers regarding the availability of low-income rates through customer mailings, brochures and bill inserts. For example, in July, August or September 2001, every NSTAR customer received a bill insert regarding the availability NSTAR's low-income rates. In addition, each of NSTAR's customers received a separate bill insert in February, explaining all of the Company's available rates, including a toll-free number to obtain further information about the Company's low-income rates. In total, four bill inserts were sent to customers during 2001 that referenced the availability of the Company's low-income rates, including one in December 2001 that included a Financial Hardship enrollment form, which is distributed to customers annually. Moreover, over the last year, a message about the Company's low-income rates was presented to customers either on the bill or by mention in the Company's customer newsletter.

## 3. Outreach Through Community Leaders

In addition to outreach provided through the DTA and 10 fuel assistance agencies, NSTAR visited more than 100 town offices throughout its service territory during 2001

to discuss the availability of its low-income rates and to provide brochures with further information about the low-income rates. NSTAR also has maintained a long-standing tradition of meeting with key community leaders in various organizations to discuss qualifications for the Company's low-income rates. These organizations include, but are not limited to:

- the Urban League;
- the South Boston Neighborhood House;
- fire and police departments;
- health and human services organizations;
- food banks;
- Roxbury District Court;
- Cambridge City Hospital;
- public housing organizations;
- veteran's agencies;
- Salvation Army offices;
- libraries; and
- the Massachusetts Department of Revenue.

Although the vast majority of NSTAR's customers enrolled in the low-income rates are subscribed through the Company's coordination with the DTA and LIHEAP agencies, the Company has been able to reach additional customers eligible for NSTAR's low-income rates through its community outreach efforts. These efforts have proven to be effective because the Company has reached customers through these community-based organizations that are eligible for its low-income rates that may otherwise not have responded to the Company's outreach through social service agencies. Accordingly, NSTAR will continue to work to enroll customers in its low-income rates through

cooperation with a broad scope of public agencies and organizations in an effort to reach the maximum number of eligible customers.

**C. Issues Relating to Increasing the Penetration Rate of Low-Income Rates Through Inter-Utility Enrollment of Utility Customers or Computer Matching Programs**

1. Current Subscriber Eligibility Standards Do Not Generally Impede the Utility Companies From Enrolling Each Other's Customers in Low-Income Rates

The Department has asked commenters to discuss whether current subscriber eligibility standards would permit utility companies to enroll each other's customers in low-income rates, as well as strategies for addressing varying income requirements of public benefit programs. Although some tariff language may differ among the utility companies with respect to referencing the specific means-tested programs under which customers may become eligible for low-income rates,<sup>4</sup> and with respect to the particular household certification requirements that must be met in a given service territory,<sup>5</sup> the intent of the tariff language for gas and electric companies generally is to implement G.L. c. 164, § 1F(4)(i), which provides that:

[eligibility is] based upon verification of a [c]ustomer's receipt of any means-tested public benefit program or verification of the eligibility for the low-income home energy assistance program or its successor program, for which eligibility does not exceed 175 percent of the federal poverty

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<sup>4</sup> For example, in addition to the language referenced above from G.L. c. 164, § 1F(4)(i), Boston Edison Company's low-income tariff includes additional language from the statute that lists generally the types of public benefits under which customers may be eligible for low-income rates, e.g., transitional assistance for needy families, supplemental security income, and emergency assistance to elders.

<sup>5</sup> For example, NSTAR generally bases eligibility on the "customer of record" for electric or gas service. As a result, NSTAR may enroll "John Doe" as the customer of record into the low-income rate program based on the eligibility of John Doe for a means-tested public benefit. However, another utility may have "Jane Smith" of the same address as its customer of record, and Jane Doe may not be eligible for a means-tested public benefits program, and therefore, the eligibility for the utility's low-income rates would not necessarily transfer.

level based on a household's gross income or other criteria approved by the Department.

With respect to Verizon, its tariff governing its "Lifeline" program lists the means-tested programs under which its customers may be deemed eligible for low-income rates, as follows:

- recipients of TAFDC;
- recipients of EAEDC;
- recipients of SSI;
- recipients of Medicaid;
- recipients of food stamp benefits;
- recipients of fuel assistance;
- low-income individuals living on tribal lands who establish their income eligibility by certifying their participation in one of the following federal assistance programs:
  - Bureau of Indian Affairs General Assistance;
  - Temporary Assistance for Needy Families Tribal Administered Block Grant Program;
  - Head Start (under income qualifying eligibility provision only);
  - and
  - the National School Lunch Program (free meals program only).

New England Telephone and Telegraph Company, DTE MA No. 10, Part A, Section 1, at 27. Notably, the means-tested programs listed in Verizon's tariff do not precisely track the programs and eligibility criteria used by the electric and gas companies, and are not necessarily tied to the standard of 175 percent of the federal poverty level. As a result, those customers eligible for Verizon's "Lifeline" tariff with

incomes above 175 percent of the federal poverty level would not be eligible for NSTAR's low-income rates. In general, however, the eligibility criteria for the utility companies' low-income rates are similar enough that many, if not all, customers eligible for one company's low-income rate would be eligible for another company's low-income rate. For example, to the extent that a customer receives certain benefits through the DTA or DMA (TAFDC, EAEDC, food stamps, SSI or Medicaid) or LIHEAP, and as long as the customer's household income does not exceed 175 of the federal poverty level, that customer would be eligible for low-income rates on any utility system.

In evaluating whether the Department should require a program that would attempt to match customers between utility companies, the Department should consider both privacy issues, which are discussed below, and the costs of creating the kind of cross-enrollment envisioned by the Department's question. NSTAR Gas and NSTAR Electric currently are able to enroll each other's customers, but the process is relatively cost-free because the Company applies the same eligibility criteria and has a single billing and customer-information data-base that facilitates the matching of customer names. The costs to develop sophisticated systems to facilitate the exchange of information with other utility companies may be considerable and may not be warranted by the level of incremental enrollment that would be achieved. Therefore, to the extent that the Department were to adopt such a strategy, the Department should allow utility companies to develop this alternative through mutual agreement.

2. Automatic Enrollment Through Computer Matching Programs  
And Inter-Utility Enrollment of Customers in Low-Income Rates  
Is Dependent on the Resolution of Privacy and Rate Issues

The Department has asked commenters to discuss in separate questions:  
(1) whether Utility Companies could implement a computer-matching program with

government agencies to verify subscriber eligibility and enroll eligible customers in low-income rates; (2) whether any legal impediment exists to enrolling eligible customers in all available low-income rates; and (3) whether privacy issues exist relating to electronic sharing of financial or other confidential information. NOI at 6. These three questions are interrelated because the resolution of privacy issues is key to determining whether additional customers may be enrolled in low-income rates through computer-matching programs with public agencies or the inter-utility enrollment of each other's customers.

The most efficient computer-matching program to facilitate enrollment of customers into low-income rates would be one whereby a public agency would send its client information to a utility company, either directly or through a third party, and the utility company could then match its customer list with the agency's client list, and enroll customers based on that match. However, implementation of such a system is dependent on the public agency releasing its client list to the utility company, which involves substantial privacy issues. As noted previously, NSTAR currently has a system in place with the DTA and LIHEAP agencies in NSTAR's service territory to automatically enroll or renew customers in its low-income rates based on information provided to NSTAR by the customer or by the customer's previous participation in a low-income program. New LIHEAP clients are directly referred to the Company by LIHEAP. However, DTA does not make referrals to the Company that are not based on a customer request or prior participation in a program, and to date, has not allowed a direct sharing with NSTAR of new client information, which would facilitate automatic enrollment of such clients on NSTAR's low-income rates. The DTA has released new client information to an independent mailing house, which is then able to mail information on the availability of

low-income rates to customers that match those on NSTAR's customer list. In this way, customers are directly informed of the existence of the low-income rates, while retaining the choice to disclose their personal data for the purpose of becoming eligible for the utility's low-income rates.

The DTA's regulations protect the disclosure of personal data as a public record, in certain circumstances:

[i]f the disclosure of personal data may constitute an unwarranted invasion of personal privacy, the personal data is not a public record. In general, disclosure of personal data may constitute an unwarranted invasion of privacy when: (A) [t]he personal data is not of common knowledge, not of public record, and not in public view; (B) [d]isclosure will more likely than not be embarrassing or offensive to the data subject; and (C) [t]here is no legitimate public interest in disclosure sufficient to outweigh the potentially embarrassing or offensive nature of the disclosure.

106 C.M.R. 104.080. In addition, the DTA's regulations state that disclosure to the public of client-record information is normally an unwarranted invasion of personal privacy. 106 CMR 104.110.<sup>6</sup> Generally, the DTA has interpreted these regulations restrictively.

In addition, privacy issues are relevant to the Department's questions regarding inter-utility enrollment of customers into low-income rates. G.L. c. 214, § 1B governs an individual's right to privacy. That statute reads:

[a] person shall have a right against unreasonable, substantial or serious interference with his privacy.

G.L. c. 214, § 1B. Although chapter 214, § 1B has not been applied in the context of sharing customer information among utility companies, other provisions of

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<sup>6</sup> These regulations are consistent with regulations promulgated by the federal Social Security Administration ("SSA") which allow the SSA discretion to release client information, but limits such discretion to cases where the SSA determines that disclosure would not amount to a "clearly unwarranted invasion of personal privacy." 20 C.F.R. 401.140.

Massachusetts law prohibit the disclosure or use of information about persons applying for or receiving general public assistance, unless such disclosure is in accordance with the regulations of the DTA or the Massachusetts Commission for the Blind. G.L. c. 271, § 40.

However, even if the DTA provided utility companies permission to disclose client information to each other, customers may not want their personal information shared with other utility companies without their consent. For example, a customer that enrolls in one utility company's low-income rates (or signs up for service generally) may not want that fact shared with another utility company to the extent that such customer is in default on an account with the other utility company. Historically, NSTAR has been very protective of customer information, and has shared sensitive customer information only with other non-public entities pursuant to a Department directive. See e.g., Competitive Initiatives, D.T.E. 01-54 (Phase I) (October 15, 2001). In the context of the Department's directives in D.T.E. 01-54 (Phase I) regarding the disclosure of sensitive customer information to third parties, the Department ensured that customers had an opportunity prior to the disclosure of such information to "opt-out" of having their information released. Id. at 12, 25-27. Accordingly, any system whereby utility companies would share customer information must be predicated on the utility companies



receiving the consent from customers to have sensitive income-related information disclosed.<sup>7</sup>

### III. CONCLUSION

The Department has identified two means of facilitating subscribership and verification: (1) through a computer-matching program between the utility companies and public agencies; and (2) through inter-utility enrollment of customers into low-income rates. Government-assistance agencies hold the key information that the utility companies need in order to implement a computer-matching program, *i.e.*, information regarding a customer's enrollment in a means-tested public program and the customer's household income level. However, those agencies are subject to constraints with respect to the disclosure of personal information, although it may be possible for those agencies to provide information to their clients as to the availability of a utility's low-income rates through a third party in order to facilitate customer enrollment. Therefore, in considering the benefits of implementing an inter-utility sharing of information or a computer-matching program, the Department should also consider the important privacy issues and cost implications.

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A second consideration relating to a Department directive to change the enrollment process to increase the penetration rate for discount programs, is the cost impact on all customers. The Act has codified a long-standing policy of the Department regarding the costs of Discount Rates, *i.e.*, that they "shall be included in the rates charged to all other customers of a distribution company." G.L. c. 164, §1F(4)(i). Consistent with this statutory provision, the Department has held that subsidized rates should be available for income-eligible customers, provided that the impact of the subsidy on other customers is reasonable. Cambridge Electric Light Company, D.P.U. 92-250, at 250 (1993), Massachusetts Electric Company, D.P.U. 89-21, at 43-44 (1989); Western Massachusetts Electric Company, D.P.U. 87-260 (1988), Eastern Edison Company, D.P.U. 88-100, at 62 (1988). Accordingly, in order to assess more completely issues relating to increasing the penetration rate for discount programs, the Department must consider the potential rate impacts of various options to increase discount program penetration. Such information will allow

Respectfully submitted,

**NSTAR**

By Its Attorneys,

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the Department to consider the appropriate balance between costs and benefits in the context of this proceeding and provide for an appropriate adjustment in rates for other customers.